

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Charley Y. Lloyd et al.

Examiner: Robert A. Madson

Serial No.: 09/781,583

Group Art Unit: 1761

Filed: February 12, 2001

Docket No.: 5520USA (G180.140.101)

Title:

PORTABLE CONTAINER SEPARATELY CONTAINING TWO
CONSUMABLE PRODUCTS, AND A DRY CONSUMABLE PRODUCT,
ESPECIALLY RTE CEREAL, FOR USE THEREWITH



RECEIVED
JUL 29 2003
GROUP 1761

DECLARATION UNDER 37 C.F.R. §1.131

Mail Stop [Non-Fee] Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

We, Charley Y. Lloyd, Amany Abouelenein, John P. Rebhorn, and Karen McClure, declare as follows:

1. I, Charley Y. Lloyd, am an employee of General Mills, Inc. and reside at 5445 Smetana Drive, #2113, Minnetonka, Minnesota 55343.
2. I, Amany Abouelenein, am an employee of General Mills, Inc. and reside at 18869 Wynnfield Road, Eden Prairie, Minnesota 55347.
3. I, John P. Rebhorn, am an employee of General Mills, Inc. and reside at 9187 Lanewood Lane N., Maple Grove, Minnesota 55369.
4. I, Karen McClure, am an employee of General Mills, Inc. and reside at 15805A 24th Avenue North, Plymouth, Minnesota 55447.
5. We are the named inventors of the subject matter described and claimed in the above-identified U.S. Patent Application Serial No. 09/781,583, filed February 12, 2001.

Declaration Under 37 C.F.R. §1.131

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6. We understand that we make this Declaration in response to the Office Action mailed April 24, 2003 and in support of the patentability of the claims of U.S. Patent Application Serial Number 09/781,583.

7. This Declaration under 37 C.F.R. §1.131 is made in response to the rejection of claims 32-38 and 53 under 35 U.S.C. §103(a), based upon U.S. Patent Application No. 10/055,056 with Publication No. 2002/0192338A1 to Ness et al., entitled "A Portable Food Container Having Separate Compartments," as the primary reference.

8. Prior to January 22, 2001, we conceived the above-identified and claimed invention. As factual evidence of our conception prior to January 22, 2001, attached hereto and incorporated by reference herein, is Exhibit A.

9. Exhibit A is a partially redacted, confidential document of General Mills, Inc. In particular, Exhibit A is a copy of a portion of Invention Record 5520, which was electronically submitted to the Patent Section of the Law Department of General Mills, Inc. Invention Record 5520 was marked as received by the Law Department of General Mills, Inc. on November 27, 2000. Exhibit A describes the subject matter of the present application and information regarding the origination of the invention. Invention Record 5520, i.e. Exhibit A, fully supports that the claimed invention of the present application was conceived prior to January 22, 2001.

10. After conceiving the claimed invention of the present application, we diligently filed U.S. Patent Application No. 09/781,583, as described in Paragraphs 11-15 below.

11. Invention Record 5520 was submitted to the Patent Section of the Law Department of General Mills, Inc. The Invention Record 5520 was received by the Law Department of General Mills, Inc. on November 27, 2000 as noted in Exhibit A.

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12. Invention Record 5520 was reviewed by the Patent Section of the Law

Department of General Mills, Inc. A copy of Invention Record 5520 was forwarded to the law firm of Dicke, Billig, & Czaja, P.L.L.C requesting preparation of a U.S. Patent Application based upon Invention Record 5520. Dicke, Billig, & Czaja, P.L.L.C. is now located at Fifth Street Towers, 100 South Fifth Street, Suite 2250, Minneapolis, MN 55402 and specializes in patent, trademark, and copyright law.

13. Timothy A. Czaja, USPTO registration number 39,649, of Dicke, Billig, & Czaja, P.L.L.C. prepared at least one draft of the present application, based upon Invention Record 5520, and submitted the draft for inventor and in-house counsel review.

14. Following inventor and in-house counsel review of the first draft of the present application, a copy of the first draft of the present application including inventor comments was received by Dicke, Billig, & Czaja P.L.L.C. Timothy A. Czaja reviewed and incorporated the comments to the application of the present invention.

15. On February 12, 2001, the present application, U.S. Patent Application No. 09/781,583, was timely filed with the U.S. Patent and Trademark Office (U.S.P.T.O.).

16. Therefore, it is respectfully submitted that the present application claims an invention that was conceived prior to January 22, 2001 and diligently filed with the U.S.P.T.O. Thus, the Ness et al. U.S. Application No. 10/055,056 with Publication No. US2002/0192338A1 should be removed as a reference under 35 U.S.C. §103(a).

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17. We further declare that all statements made herein are of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or patent issued thereon.

Charley Y. Lloyd

Charley Y. Lloyd

July 9, 2003

Date

Amany Abduelein

Amany Abduelein

July 8, 2003

Date

John P. Rebhorn

John P. Rebhorn

July 9, 2003

Date

Karen McClure

Karen McClure

08 July 03

Date

NOTE: This is a draft copy of the Invention Record for printing or E-Mailing your supervisor or others. You may save this copy if you wish. The actual data for the final invention record will be processed by Annette Frawley. She will review the information, call or E-Mail you if more information is required or needs to be clarified. After she reviews this record as well as any other documents that you have sent electronically, she will assign a docket number and notify you.

INVENTION RECORD General Mills, Inc. and Affiliated Companies

This form is for the reporting of any new thing which might be patentable. This form will be reviewed by the JFB Patent Liaison (Annette Frawley, JFBTC – 2014, 612-764-4158), who will review it and assign a permanent case number. It is not a request for, or authorization of, any patent work. Its purpose is to direct attention to and make a record of new discoveries. The Patent Section (or Patent Administrator) will acknowledge receipt of this form.

INVENTION RECORD CASE NBR: 5520

TITLE: Cereal Design for Single-Serve Cereal and Milk Package

CATEGORY: Cereal/Grain Snack Base Technology

INVENTION TYPE: A Design

DESCRIPTION OF SUBJECT MATTER

The package provides portable cereal and milk in separate compartments for easy consumption. The cereal pieces require a uniform, sphere-shaped design in order to flow from package to user's mouth.

1. Advantages over previous practices in this field

Consumption of cereal and milk becomes one-handed and spoonless because cereal pieces and milk flow from the package to the user's mouth.

2. Detailed description of the invention.

The cereal pieces are processed using cereal puff systems to create the optimal spherical shape and density and to maintain uniformity among cereal pieces. For optimal flow from the package, each cereal piece is required to be between 1/5 and 2/5 inch in diameter and maintain an overall density ranging from 225 to 375 g/100 cubic inches.

3. Variants or equivalents.

The actual diameter size and density may change for different packaging options, however, the range given is to include all current packaging executions.

The type of cereal may vary depending on consumer demand. The cereal system that produces the cereal pieces will vary depending on the product.

4. Has this subject matter been made available in any way to persons outside of the Company?

1. By submission of samples? Or consumer test?

- 2. By printed publication?
- 3. Via Tradeshows, Technical Seminars or Conferences?
- 4. By discussions with third party sources?
- 5. By other written or verbal disclosures?

EXHIBIT A

5. Has the thing or idea which you have described in this record been?

1. Tried experimentally? Yes. Research team has experimented with cereal shapes and flow characteristics through bench-top experiments.
1. Used in Company operations? No
1. Sold or offered for sale? No

Divisional Marketing Research Contact: Pam Werley

6. When did the described subject matter first occur to you? Or to the originator, if you are not the originator?

Awareness to subject matter began when I was placed on development team in June, 2000. Discussion on the packaging's need for a specific cereal shape began approximately in November, 1999.

7. First disclosure information: No disclosure has been made.

8. On what Company projects and/or outside contracts were you working when this subject matter was:

9. Prior Art:

- a) Known Patents: No
- b) Patent Applications: No
- c) Company Literature: No
- c) Other corporation R&D: No
- d) Competitive products: No
- e) University R&D: No
- f) Foreign R&D: No
- g) Prior Invention Records: No
- h) Product(s) that the invention was developed for:

GMI Cereals

Inventor's names and Phone numbers will appear below after a Docket Number is assigned.

Charley Lloyd 764-3538

John Rebhorn 764-7428

Amy Abouelenein 764-4325

When you are ready to submit this Invention Record please do so via Inventions Online. You will be notified of status after the docket number is assigned. If you have any questions please call or E-Mail Annette Frawley (ext. 4158)

General Mills, Inc. C O N F I D E N T I A L

WITNESSES: I(We) are not co-inventors and I(We) am(are) technically qualified to understand the subject matter. I (We) have read this invention record (including the attached pages, if attached) and understand it's subject matter.

Signature: Charley C. Lloyd Date: 11/27/00
Signature: Annette M. Frawley Date: 11/27/00

General Mills, Inc. C O N F I D E N T I A L

RECEIVED

NOV 27 2000

GENERAL MILLS INC
JFB TECHNICAL CENTER

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